

**FEDERAL ELECTION COMMISSION**  
999 E Street, N.W.  
Washington, D.C. 20463

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**FIRST GENERAL COUNSEL'S REPORT**

**SENSITIVE**

AUDIT REFERRAL: 03-02  
DATE ACTIVATED: MAY 14, 2003

EXPIRATION OF STATUTE OF  
LIMITATIONS:  
August 8, 2005-November 3, 2005<sup>1</sup>  
STAFF MEMBER: Albert R. Veldhuyzen

**SOURCE:** AUDIT REFERRAL

**RESPONDENTS:** Bush-Cheney 2000, Inc. and  
David Herndon, as Treasurer  
Dalton Air Group  
Executive Charters  
Kleiner, Perkins, Caufield & Byers  
Koury Aviation  
McRae Aviation  
Portman Equipment Co.  
Swift Transportation, Inc.

**RELEVANT STATUTES  
AND REGULATIONS:** 2 U.S.C. § 441b(a)  
11 C.F.R. § 114.9(e)

**INTERNAL REPORTS CHECKED:** Audit Documents

**FEDERAL AGENCIES CHECKED:** None

**I. GENERATION OF MATTER**

The Commission audited Bush-Cheney 2000, Inc. (the "Committee") pursuant to  
26 U.S.C. § 9038(a). This audit covered the period from August 4, 2000 through March 31,

<sup>1</sup> The statute of limitations for the in-kind contributions of air charter services ranges from August 8, 2005 to November 3, 2005. The trips in question occurred between August 8, 2000 and November 3, 2000.

2001. The Audit Division referred this matter to the Office of General Counsel on March 14,  
2003. *See* Attachment 1.

## **II. FACTUAL AND LEGAL ANALYSIS**

The Audit Report found that the Committee used numerous aircraft provided by various  
charter service corporations ("carriers") for campaign-related travel during the 2000 presidential  
campaign. The Committee paid some of these carriers the lower first class air rate rather than the  
charter rate. The Audit Division calculated that the Committee should have paid the carriers a  
total of \$123,227.<sup>2</sup> However, the Audit Division concluded that the Committee paid only  
\$27,718 to the carriers. Therefore, the Committee received in-kind contributions in the amount  
of \$95,509. *See* Attachment 1 at 5.

The Audit Report recommended that the Committee pay \$95,509 to the United States  
Treasury. The Committee has acknowledged its error and accepted the Audit Division's  
recommendation that it repay \$95,509 to the U.S. Treasury.<sup>3</sup> The Commission received a check  
in that amount on March 13, 2003.

The Office of General Counsel recommends that the Commission find reason to believe  
that Bush-Cheney 2000, Inc. and David Herndon, as Treasurer, violated 2 U.S.C. § 441b(a) by  
accepting in-kind contributions from air charter vendors. The Office of General Counsel also  
recommends that the Commission find reason to believe that Dalton Air Group; Executive  
Charters; Kleiner, Perkins, Caufield & Byers; Koury Aviation; McRae Aviation; Portman

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<sup>2</sup> The carriers provided the Committee with travel services to cities not served by regularly scheduled commercial service. 11 C.F.R. § 114.9(e)(1)(ii).

<sup>3</sup> In its March 13, 2003 response to the final audit report, the Committee wrote, "During the course of the Presidential campaign, BC2000 flew literally hundreds of private aircraft as permitted by 11 C.F.R. § 114.9(e). BC2000 concurs that seven flights were inadvertently taken on air charter services and with the Audit Staff's revised cost figures for these flights. A check made payable to the United States Treasury is attached." Attachment 2 at 1.

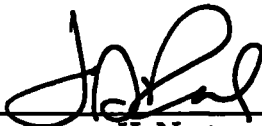
Equipment Co.; and Swift Transportation, Inc. violated 2 U.S.C. § 441b(a). Since the Committee paid the \$95,509 to the United States Treasury, the carriers forfeited this amount to the United States Treasury. As a result, this Office does not believe that any further corrective action by the respondents or a civil penalty is necessary. Therefore, the Office of General Counsel also recommends that the Commission take no further action in this matter.


**III. RECOMMENDATIONS**

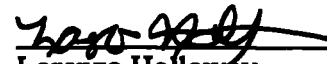
1. Open a MUR.
2. Find reason to believe that Bush-Cheney 2000, Inc. and David Herndon, as Treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 114.9(e) by accepting in-kind contributions from air charter corporations, but take no further action and send an admonishment letter.
3. Find reason to believe that Dalton Air Group; Executive Charters; Kleiner, Perkins, Caufield & Byers; Koury Aviation; McRae Aviation; Portman Equipment Co.; and Swift Transportation, Inc. violated 2 U.S.C. § 441b(a) by making in-kind contributions to Bush-Cheney 2000, but take no further action and send an admonishment letter.
4. Approve the appropriate letters.
5. Close the file.

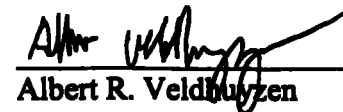
Date

6/18/03

for   
Lawrence H. Norton  
General Counsel

  
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Gregory R. Baker  
Acting Associate General Counsel

  
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Lorenzo Holloway  
Assistant General Counsel

  
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Albert R. Veldhuyzen  
Attorney

**Attachments:**

1. Audit Referral Memorandum
2. Bush-Cheney 2000 response to Final Audit Report